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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,410	12/03/2003	Norbert Weghaus	WEGHAUS1	4749
1444	7590	11/03/2005	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			ADDISU, SARA	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,410

Applicant(s)

WEGHAUS ET AL.

Examiner

Sara Addisu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 and 30 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The objection to the drawing is withdrawn due to the Applicant's amendment filed 6/30/05.

Claim Rejections - 35 USC § 112

The rejection of claims 3-6 under 35 USC 112 1st paragraph is withdrawn due to the Applicant's amendment filed 6/30/05.

Response to Arguments

Applicant's arguments filed 6/30/05 have been fully considered but they are not persuasive.

Regarding claims 1 of Applicant's argument (page 10, lines 4-6), " Psenka teaches broach cutting teeth E to G having sides with guiding function, but Applicant notes that these teeth have no bottom cutting blades", attention is called to Psenka, '919, Col. 4, lines 10-12 which teaches, "... the teeth of the second (note: which include E, F and G) and following series cut primarily with their tops" ("tops" is the equivalent of the bottom cutting blade of the instant application).

Regarding claims 1 of Applicant's argument (page 10, lines 10-15), " Thus, the teeth of the series E to G do not teach the broach cutting teeth as stipulated in amended

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claim 1 having a bottom cutting blade, a guiding side and a non-cutting relieved edge on the opposite side, as can be seen from an analysis of the mode of operation of the claimed invention", attention is called to Psenka, '919, figure 5 and Col. 4, lines 16-26" which teaches a cutting teeth having a bottom cutting blade (see argument above), side (72) with guiding guide edge (52) (also admitted by Applicant's remark, page 10, lines 4-5 and page 9, lines 17-19) and a non-cutting relieved edge (74) on the opposite side of side (72). The same response applies Applicant's argument (page 11, lines 18-21), "There is no teaching of teeth having a guiding flank on one side and a flank which aside a forming portion in the vicinity of a pitch does not come into contact with the profile to be broached".

Regarding Applicant's argument (page 11, lines 5-15), regarding teeth A-D and teeth series 60-65, Examiner respectfully submits that only teeth series E-G are used to rejected the Instant application.

Specification

- The abstract of the disclosure is objected to because it is in claim format and contains legal phraseology, e.g. "comprises".. Correction is required. See MPEP § 608.01(b).

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- The disclosure is objected to because of the following informalities: Page 10, line 18 recites "The do not possess ...". The word "The" should be replaced with "They".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, page 4, lines 13-15, recites "... wherein the second sides are relieved surfaces (29a to 29c) that do not rest on the profile flank (16) until engagement with the bottom cutting blades (23a to 23f)". Further review of the drawings and Specification (Page 10, line 25- Page 11, line 3), do not clarify the claimed subject matter. For the purpose of this Office Action, Examiner interprets it as, bottom cutting blade transitions into a relieved side surface.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the

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subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, as best understood, are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Psenka (U.S. Patent No. 2,683,919), in view of Applicant's Admitted Prior Art (AAPA).

Psenka teaches an internal broach (10) for internally broaching tooth space (profiles) (30 or 40), defined by a bottom and profile flanks. Psenka also teaches a broach having a shank (with central longitudinal axis) leading in a direction of broaching and a series of circular [annular] blades (toothed sections, therefore having a distance (i.e. pitch between the teeth) with several rows of broach cutting teeth (bottom cutting blades as well as first and second sides allocated to the flanks) disposed successively counter to the direction of broaching and parallel to the longitudinal axis (see figure 1 & 3), to form the desired depth and shape ('919, Col. 3, lines 1-12). Psenka also teaches cutting teeth (E-G) having a bottom-cutting blade ('919, Col. 4, lines 10-12), side (72) with guiding function (also admitted by Applicant's remark, page 10, lines 4-5) that form profile flanks (e.g. 52) and a non-cutting relieved edge (74 at the vicinity of pitch a) on the opposite side of side (72) and form flanks in the vicinity of the pitch ('919, figure 5 and Col. 4, lines 16-26). The bottom cutting blade transitions into a relieved side surface (74), therefore the relieved side surface does not rest on the profile flank until the engagement with the bottom-cutting blade. Psenka also teaches the bottom cutting blades being designed for cutting over a full profile width ('919, Col. 4, lines 52-55).

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Additionally, the guide edges are unrelieved surfaces (therefore having no flank pitch) (Col. 6, lines 4-6). Regarding claim 4, Psenka teaches in figure 1, broach cutting teeth disposed in rows (parallel to the central longitudinal axis) as well as side by side relative the direction of broaching such that they form helically extending chip spaces with respect to the central longitudinal axis. Regarding claims 3, 5 and 6, Psenka teaches a broach designed to cut helical teeth, tooth spaces, splines or splineways, when drawn through a hole in a work piece ('919, Col. 1, lines 1-4).

However, Psenka fails to teach the bottom surfaces of the bottom-cutting blade being a relieved. Applicant's Admitted Prior Art (AAPA) teaches that it is customary for the bottom cutting blades to have a relief surface (Specification Page 10, lines 8-9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Psenka invention to have a relieved bottom-cutting blade, as taught by AAPA, because AAPA teaches that it is customary for the bottom cutting blades to have a relief surface.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara Addisu at (571) 272-6082. The examiner can normally be reached on 8:30 am - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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BOYER D. ASHLEY
PRIMARY EXAMINER

SA
10/31/05